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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,404	11/10/2003	Satoshi Mizutani	20050/0200476-US0	4407
7278	7590	10/02/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			REICHLE, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	
DATE MAILED: 10/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,404

Applicant(s)

MIZUTANI ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 3-9, 11, 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4-17-06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 3-9, 11 and 16-17 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6-13-05.

Response to Amendment

2. The substitute specification filed 6-26-06 including the abstract have not been entered because such do not comply with 37 CFR 1.121 in that they do not show all the changes made to the text as of 7-25-05. For example, the abstract still does not show either the second paragraph struck thru nor is there a request to cancel such. See marked up copy of the specification, e.g. the title and first three subtitles on page 1, page 2, line 12, "FIG. 2", pages 19-23, e.g. the paragraph numbers, and compare to the corresponding text as of 7-25-05.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

4a. The drawings were received on 6-26-06. These drawings are not approved by the Examiner. The replacement Figures raise new issues, e.g. the cross-sectional lines have been similarly designated in two different Figures, i.e. 1 and 8, and in Figure 11 there is now an undenoted arrow.

4b. Therefore, the drawings are still objected to because Figure 2 should be labeled PRIOR ART. Cross-sectional lines, e.g. A-A' in Figure 8, should be denoted by Roman or Arabic numerals not letters. In Figure 12, the numeral 50 should denote the discontinuous part not the opening portion. Figure 17 is not a chart as described on page 18. The written text in the Figures should be avoided. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

As noted in paragraph 2 supra, the substitute specification including the abstract filed 6-26-06 has not been entered. Therefore:

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract.

6. The abstract of the disclosure is still objected to because the abstract should be limited to a single paragraph. Also terminology which can be inferred, e.g. "The invention relates to", and legal terminology, i.e. "comprises", should be avoided. Correction is required. See MPEP § 608.01(b).

7. The disclosure is still objected to because of the following informalities: The specification is replete with informalities. For example: 1) On page 3, line 22, "Disclosure of the invention" should be --Summary of the Invention--. 2) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims is not commensurate in scope, see MPEP 608.01(d). 3) What is 46b in Figures 3-4? What are the circled numerals 1 and 2 in Figure 17? 4) On page 19, line 26, "pad14" should be --pad 14--. 5) Where is a detailed description of each of the Figures set forth in The "Best Mode of Carrying Out the Invention

Section”, e.g. Figures 31 and 34? 6) “Best Mode of Carrying Out the Invention” on page 19, line 20 should be --Detailed Description of the Invention--. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

8. Claims 1-2, 10 and 12-15 are objected to because of the following informalities: In claim 1, line 1, “the” should be deleted. Appropriate correction is required.

Claim Language Interpretation

9. The claim terminology is interpreted in light of the specific definitions on page 12, lines 6-9, page 13, lines 4-7 and the paragraph bridging pages 13-14 as best understood. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

11. Claims 1-2 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Matzkow DE ‘982.

Claims 1-2: See Figures, the English abstract, page 5, first full paragraph, page 6, second and third full paragraphs, e.g. various shapes and the diameter is 20-200 mm, the instant application at page 21, lines 7-25, '982 further at the second and last paragraphs on page 7 and page 8 and the Claim Language Interpretation section supra, i.e. the fluid permeable cover sheet is 17, the opposite fluid impermeable support sheet is 15, the fluid absorbent body is 11, the peripheral edge bonding area is 12 and the body for manipulating the remainder of the article with respect to the human body is 10. The article 100 is a liquid absorbent hygiene article, e.g. an incontinence article, e.g. a body fluid absorbing device, having a gripping surface. Applicant claims the device being an "interlabial pad adapted to be held between the labia of a wearer", i.e. a pad having a capability of having at least some portion thereof held between the labia and the body, i.e. 10, being a pull-up body "for removing the interlabial pad", i.e. having the capability of removing the pad. Therefore, such recite functions, properties or capabilities of the structure set forth in claim 1. If not already taught by the Matzkow, see the portions cited supra, the Matzkow reference at the very least teaches the structure of claim 1 as well as dimensions of such structure which are the same as that disclosed by the instant application. Therefore there is sufficient factual evidence for one to conclude that such same structure of Matzkow inherently includes the same functions, properties and capabilities of such structure as claimed, see MPEP 2112.01.

Claims 12-14: These claims recite functions, properties or capabilities of the structure set forth in claim 1. If not already taught by the Matzkow, see the portions cited supra, the Matzkow reference at the very least teaches such structure of claim 1 as well as the same dimensions. Therefore there is sufficient factual evidence for one to conclude that such same structure of

Matzkow also inherently includes the same function, properties and capabilities as the structure as claimed, see again MPEP 2112.01.

Claim 15: See page 7, second full paragraph which teaches the article 100 can be individually packaged, i.e. '982 teaches a "wrapping body" because it teaches a pad enclosed in a container, i.e. "a wrapping container".

12. Claims 1-2 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Osborn '610.

Claims 1-2: See Figures 1-5 and 8-9, page 1, "Field of the Invention" section, page 3, first full paragraph, pages 6 and 7, second full paragraphs thereof, page 17, line 18-page 18, line 7 and page 21, lines 12-13 and the Claim Language Interpretation section supra, i.e. the cover sheet is 42, the support sheet is 38, the absorbent is 44, the peripheral edge bonding area is 60, and the pull-up body is one of 52 or an extraction string or loop, see page 21, lines 12-13. The device 20 is an interlabial pad. As seen in Figures 4-5 and 9, when the device is folded, e.g. when inserted, when packaged, and/or when extracted, the pull-up body for removal of the pad projects parallel to the absorbent body from the peripheral edge toward the outside of the pad. Therefore, '610 does teach a pull up body to the extent claimed.

Claims 12-15: See the portions of Osborn cited supra as well as the paragraphs bridging pages 18-19 and 21-22.

Claim Rejections - 35 USC § 103

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as obvious over Osborn '610 in view of Wierlacher '096.

Applicant further claims a minisheet piece bonded to the support sheet to define a finger insertion opening therebetween adapted for insertion of a finger and extending along the lateral direction of the pad. The Osborn reference teaches a tab 52 or string or loop for insertion and/or extraction of the interlabial device. It is unclear whether a tab 52 may be used for insertion in combination with a loop or string for extraction. Also Osborn teaches the pad can be inserted/extracted with a finger or fingers. See portions of Osborn cited supra. Therefore, Osborn does not, at the very least, teach a sheet, e.g. loop, as claimed, and, at most, such in combination with a pull up body. In either case, see Wierlacher '096 at page 17, line 30-page 21, line 3, i.e. handling aid for insertion/extraction can be one or more strings or strips, i.e. sheet bonded to a support sheet to define an opening therebetween, e.g. a finger loop, as claimed or a series of finger loops intended to allow insertion of at least one finger. Therefore, to make the insertion or/and extraction element, i.e. the tab or/and string or loop, of Osborn one or more minisheets as claimed would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Wierlacher. In so doing, if Osborn does teach a tab in combination with a string or loop, the prior art combination teaches at least one is a minisheet as claimed, i.e. the prior art combination teaches a minisheet and pull up body/tab combination, or, in the alternative, even if Osborn teaches only one of a tab, string or loop, the prior art combination teaches such can be a series of minisheets as claimed, i.e. one of such minisheets can be considered a pull-up body in combination with at least one other of such minisheets. In the latter case, as noted supra the means for insertion/extraction, e.g. tab 52, extends beyond the

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peripheral edge bonding area when folded such that the means is gripped to insert/extract a location outside said area. To also so extend any such means for insertion/extraction, e.g. the minisheet(s), of the prior art combination, if not already, would also have been obvious to one of ordinary skill in the art so as to achieve the same benefits/advantages, e.g. such allows easier or simpler grasping and thereby, such insertion/deletion thereof. The prior art combination also teaches a minisheet extending laterally, i.e. extending along the lateral direction of the pad.

Response to Arguments

15. Applicant's remarks have been carefully considered but are either deemed moot in that the issue has not been reraised or deemed not persuasive for the reasons set forth supra. Specifically with respect to Osborn '610 alone or in combination with Wierlacher '096, Applicant's remarks are deemed not persuasive because they are narrower than the claim language and the teachings of the prior art as set forth supra. It is noted that Figure 7 argued by Applicant shows the prior art and was not relied upon by the Examiner. See the prior art rejection supra and, e.g., page 21, lines 12-13 again.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art also show absorbent articles with pull-up bodies.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any new grounds of rejection were necessitated by the amendments to claims 1, 10 and 15.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
September 9, 2006